

## Office of the State Public Defender Administrative Policies

Subject: <b>Major Crimes Unit</b>	Policy No.: <b>150</b>
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### 1.0 POLICY

The Office of the State Public Defender (OPD) recognizes the need and benefit of creating an employee unit capable of handling complex and high profile cases. A Major Crimes Unit has been established, consisting of attorneys and support staff in numbers as designated by the Chief Public Defender. One of the attorneys will be designated Supervisor of the unit.

### 2.0 PURPOSE

The purpose of the Major Crimes Unit (MCU) is to:

- 2.1 Create a unit of attorneys and support staff capable of independently trying complex cases, up to and including death penalty cases;
- 2.2 Significantly reduce reliance on Regional Deputy Public Defenders and other top management in defending major crimes;
- 2.3 Reduce workload strain in the regions caused by defending time-intensive major crimes;
- 2.4 Handle difficult cases in remote areas of the state cost-effectively; and
- 2.5 Train less-experienced attorneys on criminal defense in complex cases statewide.
- 2.6 It is not the intent or purpose of the MCU to remove the ability or opportunity to defend individuals accused of committing homicide from the attorneys in local offices.
- 2.7 While conflicts may be considered in determining case assignment, the MCU is not intended for use solely as a conflict office.

### 3.0 MAJOR CRIME CASE ASSIGNMENT

- 3.1 The Regional Deputy Public Defender shall submit the Notice of Major Crime form, found on the OPD intranet home page, and contact the MCU Supervisor within 24 hours of any homicide or attempted homicide. The Regional Deputy Public Defender and the Supervisor shall discuss the case so as to reach a decision as to assignment of counsel. The assignment options are:
  - 3.1.1 Assign the case to the MCU attorneys;
  - 3.1.2 Assign the case to an attorney in the MCU and an attorney in the local area; or
  - 3.1.3 Leave the case with the region for assignment as the region sees fit.
- 3.2 If the case involves a law enforcement officer, or a prominent local political figure, the case shall be referred to the MCU and will not be handled by local counsel.

- 3.3** Other felony cases that possess a high probability to go to trial and which appear to have a high degree of complexity/difficulty may be referred to the MCU. The Supervisor shall review the request and determine whether to accept the case.
  - 3.3.1** In making a decision, the Supervisor shall consider the case load of the unit, the complexity of the case, and whether contract counsel would have to be used to handle the case if the unit declines the referral.
  - 3.3.2** It is anticipated that the MCU will be more actively involved in cases in areas that rely on contract attorneys.
- 3.4** In the event of a complicated case with multiple defendants, death penalty issues, law enforcement, political figures, or other case load/complexity concerns, the Supervisor may request that OPD's most experienced attorneys be assigned as counsel as long as the request is in conformity with the Management Caseload Limitations Policy, #114.
- 3.5** The Regional Deputy Public Defender and the Supervisor shall take into account the following factors in discussing the case assignment:
  - 3.5.1** The complexity of the case;
  - 3.5.2** The assessment, if possible with initial information, as to whether the case will go to trial;
  - 3.5.3** The work load of the MCU;
  - 3.5.4** The work load of the local attorneys;
  - 3.5.5** The qualifications of the available local attorneys;
  - 3.5.6** That both experienced local counsel and attorneys in the MCU need to have the opportunity to represent defendants in homicide cases as lead counsel;
  - 3.5.7** The ability of the MCU to provide training of lesser experienced attorneys by involving them as second chair attorneys in homicide cases;
  - 3.5.8** Whether the case would have to be handled by contract counsel if the case is left with the region; and
  - 3.5.9** Any other considerations specific to each case.
- 3.6** To assist the Regional Deputy Public Defender and the Supervisor in making the decision as to case assignments, the MCU will maintain a list of all homicide cases assigned state-wide to OPD attorneys including the names of the attorneys assigned to those cases. The MCU will also maintain a list of all attorneys qualified to handle homicide cases, including all attorneys listed as homicide attorneys under schedule B of the career pay ladder (as adopted by the state and the union), and any other attorneys whom a Regional Deputy Public Defender has recommended and the Chief Public Defender has certified as homicide attorneys.

#### **4.0 PROCEDURE**

Once the Regional Deputy Public Defender and the Supervisor reach an assignment decision, they shall follow the following process.

- 4.1** If the decision is to assign the case to the MCU, the Supervisor will designate the lead attorney. The Regional Deputy Public Defender shall direct staff to

transfer the case to the MCU in JustWare and send any documentation to the MCU staff immediately, preferably via email or the JustWare filing cabinet.

**4.1.1** The Supervisor may request that the Regional Deputy Public Defender assign a local attorney to work with the MCU for routine court appearances, routine contact with clients who are in jail, and so forth.

**4.2** If the decision is to assign the case to a combination of MCU and local attorneys, the Supervisor will immediately designate the lead attorney. The Regional Deputy Public Defender will designate the local attorney in consultation with the Supervisor. The Regional Deputy Public Defender shall direct staff to transfer the case to the MCU in JustWare and send any documentation to the MCU staff immediately, preferably via email or the JustWare filing cabinet.

**4.2.1** The assignment decision is to be based on the experience of the local attorney, and is given to persons identified as progressing in felony trial work.

**4.2.2** Case assignments will not be based on a rotation system just to provide experience in trial work (general experience shall be acquired with less complicated cases within local offices).

**4.3** If the decision is to assign the case to the regional office, the Regional Deputy Public Defender will designate the lead attorney.

**4.4** If the Regional Deputy Public Defender and the Supervisor cannot reach agreement as to how the case shall be assigned, the Supervisor will make the assignment decision.

**4.5** All major crime case assignments are subject to final approval and/or assignment by the Chief Public Defender.

## **5.0 CONFLICTS OF INTEREST**

The members of the MCU and/or the Regional Deputy Public Defender will identify possible conflicts of interest.

If a conflict is identified, all cases under 3.1 and 3.2 shall be immediately given to the Supervisor. All other cases will be referred to the Conflict Coordinator. The Supervisor shall, in consultation with management and the Conflict Coordinator, take the necessary steps to resolve the conflict with existing internal resources. If the conflict cannot be resolved, the case shall be assigned by the Conflict Coordinator.

## **6.0 CLOSING**

Questions about this policy should be directed to OPD at the following address:

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44 West Park  
Butte, MT 59701  
Phone 406-496-6080